

REMARKS:

Regarding Claim Amendments:

Claim 1 has been amended to included the subject matter of claim 9, which has been cancelled and claim 21 has been amended to included the subject matter of claim 27 which has also been cancelled.¹

Regarding The Drawings:

A drawing replacement sheet 4/4 is included herewith comprising Fig. 5. The reference numerals 324 and 309 have been removed and the designations indicated by the reference numerals 310 and 313 have been clarified. In view thereof, the objections to the drawings are respectfully asserted to be remedied.

Rejection Under 35 U.S.C. §102(b):

The Examiner has rejected claims 1, 3, 8-10, 12, 16, 19, 20, 21, 26-28, 30 and 32-33 under 35 USC §102(b) as being anticipated by **Scarrow** (US 5,061,264). It is well accepted that anticipation under §102 can only be found if a reference shows exactly what is claimed in as complete detail as is contained in the patent claim.² For easy reference, the text of independent claims 1 and 21 is provided immediately below:

¹ In that the scope of claims 1 and 21 were previously before the Office as claims 9 and 27, respectively, it is respectfully urged that if new references are utilized, the next Action be made non-final.

² See *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (CAFC 1985) and *Richardson v. Suzuki Motor co.*, 868 F.2d 1226, 9 USPQ2d 1251, 9 USPQ2d 1913 (CAFC 1989).

1. A fluid transfer assembly for use in an infusion system, said assembly comprising: a fluid container having an infusion fluid, a drug container having a medical substance, at least one fluid barrier controlling fluid passage between said drug container and said fluid container, said fluid container further comprising at least one inlet port for receiving said medical substance from said drug container, said drug container further comprising a cap for sealing said drug container, said at least one inlet port further comprising a first luer-lock connector, and said cap further comprising a second luer-lock connector for attachment to said first luer-lock connector, wherein said at least one fluid barrier is designed and arranged to be ruptured by an external force to allow said fluid passage, wherein said drug container further comprises a neck and said cap further comprises locking members for grasping said neck.

21. A drug container for use in an infusion system, said drug container comprising: a fixed dose of a medical substance, and a cap for sealing said drug container, said cap further comprising a luer-lock connector for attachment to a corresponding connector provided on an inlet port of a container for infusion fluid, thereby creating a luer-lock coupling, said drug container further comprising a neck, and said cap further comprising locking members for grasping the neck.

With this context, it is respectfully pointed out that Scarrow discloses a system comprising a fluid container (10) which is attached to a cup (22) either (i) releasably by means of a luer lock (see col. 3, lines 11-14 and lines 33-38) or (ii) permanently (see col. 2, lines 30-31). The cup (22) is then attached to a retainer housing (50) that accommodates a vial (48) using engagement means, such as a luer lock (see col. 1 line 68-col. 2, line 1 and col. 2, lines 14-17).

Scarrow does not disclose either expressly or inherently a fluid container that is sealed by a cap that comprises locking members for grasping the neck of a drug container. Instead, the cap (22) that seals the fluid container (10) disclosed by Scarrow grasps the outside surface of a retainer housing (50) that contains a drug container (48). Moreover, if the fluid container (10) of Scarrow is considered to be a drug container sealed by a cap exhibiting a luer lock connector {the cap then being the fluid barrier (14) that seals the fluid container (10), the conduit 12 and the luer lock formations (16)}, then the luer lock formations (16) are not arranged to grasp the neck of a drug container, but instead to grasp an intermediate component, the cup (22), which then grasps

the outside surface of a retainer housing (50) that accommodates a drug container (vial, 48). Even though Scarrow discloses that the fluid container (10) and the cup (22) may be provided with a luer lock, Scarrow does not disclose that the fluid container (10) or the cup (22) may be connected directly to the vial (48).

Rejection Under 35 U.S.C. §103:

The Examiner has rejected claims 13, 15-16 and 31 as being obvious under 35 USC §103(a) over Scarrow when variously combined with Haber (US 5,593,028) and Vaillancourt (US 5,897,526). Neither of these supplemental references, however, make up the deficiency of Sparrow pointed out above; namely, neither discloses, suggests or teaches a fluid container that is sealed by a cap that comprises locking members for grasping the neck of a drug container.

Conclusion:

In view of the comments above, the patentability of the presently pending claims is respectfully asserted.

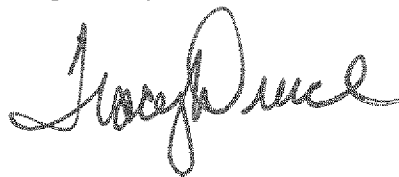
The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, referencing Attorney Docket No.: 06730.0018.NPUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner may directly contact the undersigned by phone to further the discussion.

Novak, Druce & Quigg, LLP
1000 Louisiana, Suite 5300
Houston, Texas 77002
(713) 571-3400
(713) 456-2836 (fax)
tracy.druce@novakdruce.com

Respectfully submitted,



Tracy W. Druce, Esq.
Reg. No. 35,493